Universities Academic Pension Plan Board

1989

ANNUAL

REPORT

91-03332/

Alberta
GOVERNMENT PENSION BOARDS

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February 1991

The Honourable Dick Johnston
Provincial Treasurer

Sir:

I have the honour to submit to you the annual report of the Universities Academic Pension Plan Board for the period January 1, 1989 to December 31, 1989. The report outlines the roles and responsibilities of the Universities Academic Pension Plan Board under the legislation governing the plan.

Board activities, during the period under review, with respect to its appellate and advisory roles are described in the report.

Yours truly,

J. E. Faries, FCIS, PAdm.
Chairman

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INTRODUCTION

The calendar year 1989 is the fourth full year of operation under the Universities Academic Pension Plan Board in its current role. This Board was established effective November 1, 1985 under the Universities Academic Pension Plan Act which currently (as at December 31, 1989) covers 4,569 active participants and 863 pensions in payment. The Board's main responsibilities are to hear appeals of administrative decisions made on pensions and to advise the Minister responsible for public service pensions on matters relating to the Plan.

The Honourable Dick Johnston, Provincial Treasurer, is the Minister responsible for public service pensions. The Plan is administered by Alberta Treasury, Payroll and Pensions Division.

The Board is made up of ten members appointed by the Lieutenant Governor in Council on the recommendation of their constituencies representing employees, employers and the Government.

As in past annual reports, a discussion of the Board's appellate role is provided and a cross-section of appeals is included.

The Universities Academic Pension Plan Board has continued to provide advice to the Minister. The areas of discussion have been wide ranging and in many cases continue to be ongoing. A brief summary of issues and recommendations is included in this report.

CHAIRMAN'S REPORT

During the period under review, 60% of the appellants attended or were represented at the hearings. This is an indication that the Board was accessible, by plan members, to deal with problems encountered by them. The Board fulfilled its appellate function by hearing 10 appeals during the period under review.

All hearings were held in Edmonton. Where an appellant was required to travel to Edmonton, the Board provided reimbursement of his expenses in accordance with its established policy.

All hearings are conducted on receipt of a `Notice of Appeal' filed by the member. Examples of the cases heard by the Board are reported under SUMMARY OF APPEALS.

Because of resignations and retirements, there were several changes to the membership of the Board. We sincerely wish the departing members every success in their careers. Ms. Patricia Clapp, University of Calgary Staff was replaced by Dr. T. M. Horbulyk effective April 5, 1990. In accordance with an agreement, Banff Centre for Continuing Education and Athabasca University exchanged representation. Mr. Norbert Meier, Banff Centre, replaced Mr. J. A. Nutt, Athabasca, as the representative for the employer effective April 5, 1990. Dr. Mary Hamilton, Athabasca, replaced Mr. A. K Turnbull, Banff, as the Staff Association representative effective April 5, 1990.

Each year in conjunction with other government boards, a seminar is conducted to provide a degree of training and information to new and existing Board members. As in other years resigning or outgoing members were presented with a small token of appreciation. Invitations were extended to several employee, employer and `sister' organizations. This allowed for discussion of different topics that are of interest. Payroll and Pensions and other divisions of Alberta Treasury were also invited to provide input and information at the seminar. Topics this year included "Evolving Issues in Public Sector Pensions", "Plan Governance" and several others such as a review of the board's legal responsibilities and authority. Speakers included a member from the private pension industry, the Board's legal consultant, union representatives and members from Payroll and Pensions and the Investment Division of Alberta Treasury. The seminar proved once again to be successful and beneficial to all.

In addition to the important quasi-judicial role, the Board made several recommendations to the Minister regarding cost of living adjustments to pensions funding and pension reform. These recommendations are described under the heading ADVICE.

THE BOARD

The Universities Academic Pension Plan Board is comprised of four representatives of the academic staff associations, four employer representatives, one member representing the government's interest and the Chairman.

Brief biographies of the nine Board members as at December 31, 1989 are provided on the following page.

With the exception of the Chairman, Board members serve on a part-time basis. The Chairman also serves as Chairman of the Boards of four other government administered pension plans. A small staff provides professional and administrative services to this Board and to the other Boards.

To assist the Board in its advisory role, employees, employers and interested groups are encouraged to express their views and concerns on policy issues to the Chairman or their representative Board members.

The Board met six times in the period under review. Board minutes are recorded but are not made public.

Members

J. E. Faries

Mr. Jerry Faries is Chairman of the Board and has considerable background in pension policy and administration. He served over 15 years as Director of the Pension Administration. Mr. Faries was Chairman and instructor for the Employee Benefit Administration Certificate program of the University of Alberta for a number of years. Currently he holds several senior positions on other boards and community organizations. His term of office expires on April 1, 1992.

A. F. (Chip) Collins

Mr. Collins, the government representative, is Vice-Chairman of the Board. He served as Deputy Provincial Treasurer from 1972 until his retirement in 1984. Mr. Collins brings to the Board extensive financial, administrative, and public service experience. Mr. Collins was appointed Vice Chairman on January 23, 1985 and his term of office expires on April 1, 1991.

R. D. Bercov

Dr. Ronald Bercov was appointed to the Board on August 21, 1987 to represent the Association of Academic Staff of the University of Alberta. Dr. Bercov was Associate Vice-President (Academic) for 1980 - 85 and Acting Dean of Science at the University of Alberta for the 1986-87 year. He is currently Professor of Mathematics. His term of office expires on April 1, 1991.

P. M. Clapp

Professor Patricia Clapp was appointed to the Board in October 1986 and represents the Faculty Association of the University of Calgary. Her background is in teaching and Administration. She holds Masters' degrees in Educational Supervision from the University of Oregon and in Business Administration from the University of Calgary. She directed the Management Certificate Program and the Special Sessions at the University of Calgary until November 1989.

E. E. Falkenberg

Dr. Eugene Falkenberg was appointed to the Board August 1, 1987 and represents the Faculty Members Association. Educated in Canada and the United States, he received his Bachelor of Education at the University of Alberta, his Masters of Science at the University of Oregon and his Doctor of Education at the University of Montana. He is presently Professor of Education at the University of Lethbridge. His term of office expires on April 1, 1991.

R. D. Franklin

Mr. Ronald Franklin was appointed to the Board on December 19, 1984 to represent the Board of Governors, University of Calgary. He has experience in private industry prior to joining the University of Calgary in 1964 to direct human resources. He has acted as consultant and management nominee on numerous arbitration boards in the public and private sectors. He is actively involved in community events. His term of office expires on April 1, 1991.

E. A. Hillman

Mr. Eric Hillman was appointed to the Board in October 1987 to represent the Board of Governors, University of Lethbridge. He assumed the position of Vice-President, Administration in August 1987 and has held a number of senior posts at the University of Manitoba and University of Calgary prior to coming to Lethbridge. His term of office expires on April 1, 1992.

B. H. McDonald

Mr. Brian McDonald was appointed to the Board on August 29, 1984 to represent the Board of Governors, University of Alberta. He is presently Associate Vice-President, Academic Administration at the University, a position held since 1978. Prior to joining the University staff he was employed in the oil industry in Calgary. He holds a Bachelor of Commerce degree from the University of Saskatchewan and an MBA from the University of California. His term of office expires on April 1, 1992.

J. A. Nutt

Mr. Art Nutt is a Certified General Accountant who has held a number of position in the financial area. He represents the Board of Governors of both Banff Centre and Athabasca University and is presently Associate Vice-President Finance & Administration, Athabasca University. He was appointed to the Board in February 1989 replacing Ms. Morrison. His term of office expires on April 1, 1990.

A. K. Turnbull

Mr. Keith Turnbull was appointed to the Board on November 24, 1998 to represent the Faculty Associations of both Athabasca University and Banff Centre. A graduate of the University of Western Ontario, Mr. Turnbull began his long association with the theatres and art centres throughout Canada as a producer, designer, director and instructor at the University of Western Ontario and London Little Theatre. He is currently the Associate Artistic Director, Music Theatre of the Banff Centre. His term of office expires on April 1, 1990.

SUMMARY OF APPEALS

Provisions

The Act provides that a decision of the Minister which negatively affects plan members' rights under the Pension Plan, in any of the following areas, can be appealed:

Participation	Contributions
Pensionable Service	Prior Service
Benefits	

The Act also provides for application to the Board for extension of time limits in respect of pension benefits and benefit choices. Under the terms of the various reciprocal transfer agreements, the Board is empowered to extend time limits on breaks in service and on applications at its discretion.

The provisions dealing with applications under section 10 and appeals under section 34 are outlined for easy reference in Appendix A - excerpts from the Act.

Parties aggrieved by a decision of the Board under section 34 of the Act may appeal to the Court of Queen's Bench within 30 days on a question of law or jurisdiction.

Procedure

A Notice of Appeal form, prescribed by the Minister, is normally provided to the plan member by Payroll and Pensions Division of Alberta Treasury with any adverse administrative decision. This form must be completed and submitted in filing an appeal with the Board. It may also be used for applications for time limit extensions.

Assistance to appellants is available from the Chairman's office. The individual may seek advice on what facts to gather and how these should be presented.

Though hearings are conducted in an informal manner, the Board is guided by the pension legislation and adheres to the principles of natural justice and fairness. The Board has published a Pension Appeal Process brochure which provides guidelines for members of the Alberta Pension Plans.

The Board has authorized the Chairman to reimburse appellants and applicants appearing before the Board for reasonable travel and out-of-pocket expenses. This ensures that all appellants and applicants have the opportunity to appear and present their cases irrespective of their places of residence.

Summary of Appeals and Applications (1989) - Universities Academic Pension Plan Board

During 1989 the Universities Academic Pension Plan Board met 6 times and decided on 10 appeals/applications. During 1988, the Board met 5 times and decided on 5 appeal/applications.

The Board granted or varied 90% of the appeals/applications in 1989 and 40% of the appeals/applications in 1988.

In 1989, 60% of the appellants/applicants or their representatives attended their hearings before the Board. This compares to 80% in 1988.

Summary of appeals/applications for 1989 with comparative figures for 1988 - UAPP.

	1989			1988		
Category	#	% of Total	% Granted or Varied	#	% of Total	% Granted or Varied
Reciprocal Transfer	1	10%	100%	3	60%	0%
Time Limit Extensions (Section 10)	5	50%	80%	0	0%	---
Appeals (Section 34)	4	40%	100%	2	40%	100%
TOTAL	10	100%	90%	5	100%	40%

Summary of the number of cases where an appeal/application was filed but the case did not require a hearing by the Board; appeal provision was relied upon to facilitate a resolution, i.e. granted by Payroll and Pensions Division or withdrawn.

1989 - 1
1988 - 2
1987 - 0

Additionally, one application for a re-hearing was considered by the Board, and was denied.

Summary of Appeals and Applications (1989) All Boards

During 1989, 76 appeals/applications were heard by the five Pension Boards. This compares to 58 heard during the calendar year 1988.

A. Summary by type of appeal/application. Also shown is the percentage in each type. Comparative figures for 1988 are included.

	1989		1988	
Type of Hearing	Number	% of Total	Number	% of Total
Appeals (Section 35)*	36	47	36	62
Applications Section 10	16	21	3	5
Applications (Reciprocal Agreements)	24	32	19	33
TOTAL	76	100	58	100

* Section 34 for UAPP

B. Number of Appeals/Applications filed but not heard.

Summary of number of cases granted by Payroll and Pensions and/or withdrawn by appellants prior to being heard by the Board is as follows:

Board	1989	1988	1987
PSPP	2	5	3
LAPP	3	10	10
PSMPP	1	1	1
UAPP	1	2	0
SFPP	1	1	1
TOTAL	8	19	15

C. Attendance at Hearings (by appellant and/or representative):

BOARD	1989	1988	1987
PSPP	79%	65%	75%
LAPP	54%	70%	64%
PSMPP	75%	100%	90%
UAPP	60%	80%	83%
SFPP	100%	100%	100%

D. Number of Appeals and Applications heard by the Boards

	Applications		Appeals	Total
	Reciprocal Transfer	Section 10	Section 35*	
LAPP	13	4	18	35
PSPP	10	7	7	24
PSMPP	0	0	4	4
UAPP	1	5	4	10
SFPP	-	-	3	3
TOTAL	24	16	36	76

* Section 34 for UAPP

E. Percentage of Appeals and Applications Granted or Varied

	Applications		Appeals	Total
	Reciprocal Transfer	Section 10	Section 35*	
LAPP	77%	100%	67%	74%
PSPP	60%	100%	29%	63%
PSMPP	-	-	50%	50%
UAPP	100%	80%	100%	90%
SFPP	-	-	33%	33%
Combined	71%	94%	58%	70%

* Section 34 for UAPP

F. Applications for Reciprocal Transfers (Time Limit Extensions)

	Exporting Plans							
Importing Plans	LAPP	PSPP	PSMPP	UAPP	SFPP	TRF	OTHER	TOTAL
LAPP	xx	8	1	-	-	2	2	13
PSPP	6	xx	-	-	-	3	1	10
PSMPP	-	-	xx	-	-	-	-	-
UAPP	1	-	-	xx	-	-	-	1
SFPP	-	-	-	-	xx	-	-	-
TOTAL	7	8	1	-	-	5	3	24

Appeal 1

Reciprocal Transfer - Time Limit

Applicant began employment with the Grant MacEwan Community College on July, 1, 1985 and commenced contributions under the Local Authorities Pension Plan (LAPP). She terminated employment May 15, 1986. On July 14, 1986, applicant commenced employment with the University of Alberta (U of A). In August 1986, employer advised that participant requested that the LAPP contributions be transferred to the Universities Academic Pension Plan (UAPP). P & P replied in November 1986 that transfer was denied as appellant was not a contributor to the UAPP. Letter stated that upon becoming a participant, she could again request a transfer.

Applicant commenced contributions to the UAPP on June 1, 1988. On June 15, 1988 a request for transfer was forwarded to P & P. On July 12, 1988 a request for recognition of prior service was forwarded by employer for the period July 1986 to May 1988. Applicant terminated employment on July 14, 1988. Notice of Cost was forwarded to employer in August 1988 for the period July 1986 to May 1988. Also advised that the full amount was required within ninety days of the letter. On October 31, 1988, P & P advised that the time limit under the agreement had been exceeded, however, the matter would be considered in the event of extenuating circumstances. Payment of prior service was paid in full on November 9, 1988. Applicant again requested that the transfer be allowed and was advised that the transfer had been denied.

The applicant's representative submitted the following:

> Applicant's representative referred to a clause in the reciprocal agreement which provides authority for the Board to extend time limits where circumstances warrant. He pointed out that the application was made and denied because of a university regulation preventing a member from participating in the plan prior to serving twelve months. He stated that no full time temporary staff could ever meet the time limit under the reciprocal agreement because provisions do not permit the application or participation before completing the probationary period. He stated that this regulation was never pointed out by the employer or Treasury. P. & P. correspondence of November 10, 1989 to applicant made no reference to the ninety day deadline. Applicant stated that she interpreted this letter as implying that a transfer would be granted when she became a participant.

The Minister's representative stated that the purpose of the reciprocal agreement was to allow the transfer from one reciprocating employer to another on an almost immediate basis, therefore, the three month time limit was strictly applied. He further stated that it was impossible to extend the time limit in this case because the U of A policy states that a member must serve twelve months prior to being enroled in the plan.

The Board granted the extension to allow the transfer on the basis that circumstances surrounding the employment and the employer's policy to prevent individuals from commencing participation in the UAPP resulted in the failure to meet the time limit.

Appeal 2

Backdating of Pension

In July 1968, appellant commenced employment with the University of Alberta (U of A) and contributions to the former Academic Pension Plan (APP). Contributions to the Universities Academic Pension Plan (UAPP) commenced in January 1978. July 1978, appellant terminated employment and ceased contributions. Appellant requested contributions be held on deposit. Notice of Termination was forwarded to Payroll and Pensions (P & P) in August 1979 requesting contributions to be held for a deferred pension payable on request between the ages of 55 and 65. A retirement form was received by P & P in October 1979. In July 1984 the employer enquired if appellant had made an application for early retirement. In September 1988, appellant requested pension estimated. P. & P. forwarded estimates in December 1988. The appellant requested that his pension be back-dated by six months as provided by the regulation due to his lack of knowledge. The Minister rejected this request. Pension choice was received by P & P in August 1989 in which appellant chose a non-reduced joint-life pension.

The appellant's representative stated that based on information provided when the appellant terminated employment with the U of A, his understanding was that he would be entitled to an unreduced pension at age 65 or an actuarially reduced pension between ages 55 and 65. He stated that his client was never given information that the entitlement for unreduced pension under the new Act had been changed from age 65 to 55. The correspondence forwarded to the U of A by P & P was never communicated to his client. Appellant wrote to P & P, in September 1988, requesting pension estimates at ages 59, 62 and 65. This should have alerted P & P of the intention of retiring earlier than at age 65 and he should have been made aware of the change to the Act. Appellant sought relief as follows:

1. To order that the pension commence in November 1984, the date appellant turned age 55 since he elected in 1979 for a deferred pension starting at age 65, under the old plan which would have been age 55 under the new plan, or
2. To consider appellant's letter dated September 1988 as his application for pension and to commence same on that date, or
3. To backdate the pension for six months.

The Minister's representative presented his views as follows:

> He stated that he did not have any comments with respect to the facts of the case. However, with reference to the relief sought, he pointed out that the Board had authority to backdate the pension for six months. He questioned whether the Board had authority to backdate the pension to age 55 on the basis of a previous case. He advised that it was very difficult to keep in touch with all individuals who had left contributions on deposit for a deferred pension.

The Board vacated the Minister's decision and the date of application was accepted as September 1988 and that because of circumstances surrounding this case, the commencement date be backdated a further six months to March 1988. This decision was based on the following:

1. The appellant was not aware of the rules under the new plan and had left the U of A just at the transition date between the old and new plan.
2. No updated information was forwarded to appellant.
3. The Administration should have been alerted of the appellant's desire to obtain a pension when he requested pension estimates in September 1988.

Appeal 3

Purchase of Leave of Absence

Appellant terminated employment with the University of Calgary (U of C) in November 1988. In January 1989, appellant requested to purchase a period of leave of absence (July 1987 - April 1988). In his letter he advised that the employer was aware of his intention to purchase the leave prior to leaving the U of C. The employer indicated that he was not able to purchase the period until 1989. U of C confirmed that they did not advise appellant that the application to purchase the service was required while he was still a participant. Appellant's request was rejected in May 1989 based on section 7(1) of the Regulation under the UAPP Act.

In his written submission, appellant advised that there were extenuating circumstances in his case which warranted an extension of the deadline as he had clearly stated his intention of purchasing the leave prior to terminating employment. He further stated that he attempted to make arrangements to purchase the period but could not make payment until after January 1989 due to a policy of Alberta Treasury, P. & P.

The Minister's represented presented his views as follows:

> After giving a brief history of the case, he stated that the application was rejected on the basis of section 7 of the Regulation which required an individual to be a participant and to fulfil certain conditions. He argued that this case did not fall under section 10 of the Act since appellant was required to be a participant at the time he made application. In respect of section 34 of the Act, he advised that the Minister had correctly applied the regulation and that it would be beyond the Board's authority to rectify this situation.

The Board considered the case under section 34 of the Act. The Board vacated the Minister's decision and considered the appellant to be a participant at the time of application for the leave.

Appeal 4

Pensionable Service - Educational Leave

Appellant commenced employment with the University of Calgary (U of C) in July 1968. An assisted education leave of absence was granted by her employer from July 1969 to June 1971. The period was established as pensionable service while appellant was under the former Academic Pension Plan (APP) established by the University of Alberta (U of A). A second leave was also granted for July 1971 to June 1972 as well as a leave without pay for education purposes. This period of leave was denied by the APP as only two years of consecutive leave of absence could be established as pensionable service under their plan. In January 1979, after the commencement of the Universities Academic Pension Plan (UAPP), appellant requested to purchase the service from November 1964 to June 1969 as well as the leave without pay (July 1971 to June 1972). P & P forwarded a cost estimate to the employer outlining costs for the November 1964 to June 1969 period. A cost was not provided for the July 1971 to June 1972 period. In February 1989, appellant requested the July 1971 to June 1972 leave without pay be costed as pensionable service. In July 1989, P & P advised that the request to purchase the leave without pay had been denied.

Appellant presented her case as follows:

> Appellant stated that the period of leave of absence (July 1971 to June 1972) was taken to complete her Ph.D. On finding that she could not have the period established, she expressed her concern to a senior officer at the U of C. She felt that the refusal to have the service recognized was unfair and discriminated against female employees who are mothers. In January 1979, after the Universities Academic Pension Plan (UAPP) came into effect, she applied to have the leave recognized which was denied by P & P in December 1980. A Certificate of Pensionable Service was issued in 1981 indicating that she had 9 years of service which would have included the leave in question. She signed and returned the Certificate to her employer without keeping a copy for herself. In February 1983 a second Certificate showing 8 years was signed and returned to the employer. She stated that P & P had denied her request because the application had not been made within one year of expiry of the leave. She argued that this reason was invalid because (a) at the time of her leave she was advised that the period was not pensionable, and (b) she immediately applied to purchase the leave when the UAPP came into being and leaves without pay became eligible. she stated that her case fit the three criteria under section 10(1) of the Act.

The Minister's representative stated that the leave in question had never been eligible for pension purpose. When the UAPP came into effect, the regulation only dealt with prospective leaves of absence but not leaves taken in the past. He said that the regulation also provides that the leave has to be applied for within a year of expiry of the leave.

The Board extended the time limit to permit the purchase of the leave in question on the bases that

1. The request to purchase the leave should have been presented to the Administrative Board for a decision.
2. It was the Board's view that the Administrative Board would have allowed the period to be established as pensionable service.
3. The Board found that the appellant was not materially at fault in failing to meet the time limit.

Appeal 5

Time Limit - Purchase of an Educational Leave

Appellant commenced employment with the University of Calgary (U of C) July 1972 and contributions to the Universities Academic Pension Plan (UAPP). He was granted a sabbatical leave in 1978-1979 as well as another leave from September 1985 to

August 1987. In March 1988, appellant applied to have 1985-1987 leave recognized. Payroll and Pensions (P & P) advised the employer in July 1988 of the cost to purchase the prior service and consequently received a letter from the University questioning the service on the 1987 year-end statement. The statement was corrected to reflect the change thus removing the sabbatical year (July 1978 - June 1979) as contributions had not been received. Appellant forwarded application for recognition of service in November 1988. P & P's response was that the leave would not be costed as the deadline to purchase the leave had not been met.

The applicant presented his case as follows:

> While on sabbatical leave for 1978 and 1979, information with respect to purchasing the prior service was circulated and applicant made application to establish several periods. Upon returning from the sabbatical, he did not apply for the leave and provided no explanation. In 1981 he received a statement of service up to 1978 under the predecessor plan of the UAPP. In 1984 he received a statement which showed service including the sabbatical leave up to 1984. Applicant received the 1983 statement which also included the 1978/79 leave. In 1985, he went on an unassisted leave and subsequently applied for and currently purchasing that period of service. In response to early retirement incentives, he requested information on the length of service to June 1989. A figure of 21 years was provided which would have included the sabbatical leave. After applying for and being approved for early retirement, applicant was notified by the employer advising that there was an error in the statement up to 1987 and that the sabbatical leave should not have been included. Responding to the Board's question, applicant admitted that he had forgotten about the deadline and that he had been previously advised of the terms and conditions required to establish prior service.

The Minister's representative provided the following with respect to this appeal.

> He stated that the department had nothing further to add to their written submission. Requesting clarification on questions raised, he stated that the applicant failed to purchase the service within one year of returning to the University. As far as the communication of policies governing the purchase of service, he stated that in 1979 brochures were made available to the participants from the Universities and from the pension administration.

The Board found that the applicant was aware of the time limit and had not taken steps within the specified time to make application. Therefore, the Board denied the application on the basis that the applicant was materially at fault in missing the deadline.

Appeal 6

Prior Service

Appellant commenced employment with the University of Alberta (U of A) and contributions to the Universities Academic Pension Plan (UAPP) in September 1, 1965. He was granted a leave of absence with partial pay from January to June 1988 and elected not to contribute to the UAPP. Appellant applied for a pension effective September 1, 1988. Contributions to UAPP ceased August 31, 1988. Pension options were forwarded in October 1988. Options includes full credit for 1988. Appellant forwarded pension choice on October 25, 1988. Upon enquiring as to the status of his retirement package, P & P informed appellant that as no application had been made to purchase the leave of absence, prior to him ceasing to be an employee, the service could not be recognized as pensionable service. U of A confirmed that the leave in question was an official leave with partial pay.

Appellant presented his case as follows:

> Appellant stated that at retirement he was not aware of the one year time limit for application for a study leave. Subsequent to his retirement, he advised that he repeatedly telephoned P & P to follow up on the finalized pension amount. He stated that he was only advised in May 1989 that the study leave for 1988 had not been purchased. Appellant pointed out that he had taken study leaves previously and on returning to his regular duties the University informed him of his option to establish the leaves. However, for the 1988 leave he stated that he was not advised by the University. On his return from the leave in August 1988, appellant advised that he noticed that pension contributions were deducted from the payroll and assumed everything was in order. He pointed out that he had purchased all the leaves and said that the leave was valid since it was taken for University business.

The Minister's representative presented the following:

> He indicated that he had no comments to make with reference to the facts of the case. In respect of the Board's jurisdiction to deal with this appeal, he argued that since the appellant's application to purchase the leave was made after his retirement, the Board had no authority to correct this situation. He advised that in view of the circumstances, the Minister, under the Administration's authority might be able to allow the appellant to buy the service on recommendation of the Board.

The Board vacated the Minister's decision and the appellant was allowed to purchase the leave in question.

ADVICE

The Board has provided advice in respect of a number of issues affecting the Plan. These are outlined below together with the Board's recommendations.

Actuarial Assumptions and Current Service Cost

Arising out of the discussion of the 1988 actuarial valuation and a summary of the current status of the Board's review of the 1989 plan at the February meeting, the Board requested that the Chairman's office prepare discussion papers on the viability of the existing plan, on alternate plan structures and on reciprocal transfer agreements.

In April 1989, arising out of the discussion of the purpose of the actuarial valuation commissioned by Alberta Treasury, the Chairman suggested modifications to the presentation of the normal actuarial cost in the administrative report (P & P) of March 31, 1988.

On behalf of all Boards, the Chairman wrote the Minister in May 1989, reaffirming the Boards' recommendations that valuations be done on alternate assumptions and methods, for the purpose of establishing the appropriate employee and employer contribution rates. The Minister was asked to assist in having an independent study conducted or to provide the data needed. The Board's request was declined in July 1989.

The Board in August 1989 commissioned an independent actuary to prepare a report on the Plan based on alternate assumptions and methods. After reviewing this report in September 1989 and in order to generate further discussion with the Minister, the Board forwarded the report to the Minister.

At the September 1989 meeting, the Board directed the Chairman's office to obtain an estimate on current service costs from the actuary on the Universities Academic Pension Plan. Estimates prepared by the Alexander Consulting Group were provided to the Board in October. The results of the study were forwarded to the Minister.

In view of the possible impacts of the proposed Federal Income Tax legislation on the UAPP, the Board agreed to delay proceeding with the issue of costing modifications to reduce costs pending provision of actuarial costings by the Minister on the new Income Tax Act.

Impact of the Proposed Registration Rules for Pension Plans

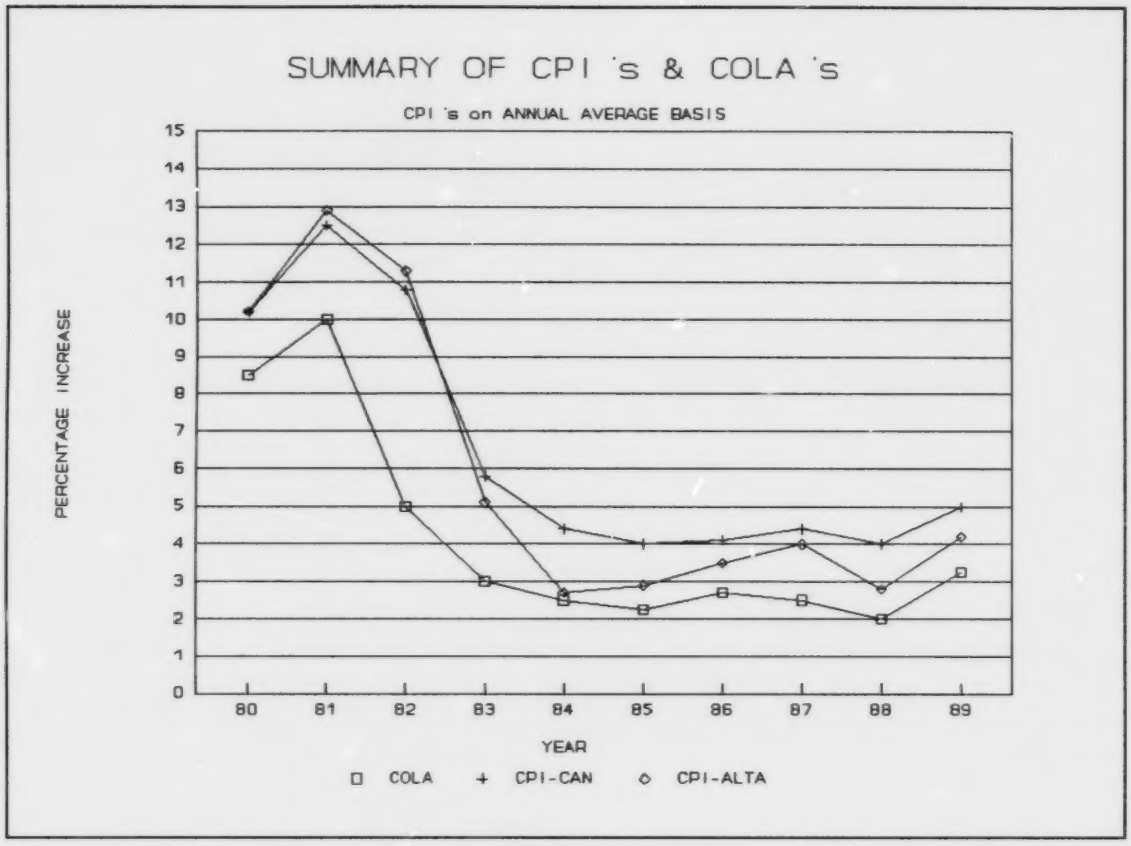
In the Fall of 1989 the Board was provided a copy of an analysis report prepared by an actuarial firm retained by the Minister in respect of the registration rules for pension plans proposed by Revenue Canada. The Board reviewed and identified major areas of the Federal Government's draft legislation in October and tabled the item for further discussion early in 1990.

Separate Allocation and Accounting of Pension Fund for Each Plan

In February 1989, the Board recommended that pension fund assets be allocated to each plan for accounting purposes. (Recommendation to be forwarded to Minister once item under review of the plan has been completed).

Cost of Living Adjustments to Pensions

Currently, cost of living adjustments (COLA) to pensions and deferred pensions are granted on an ad hoc basis by the Government. In November 1989 the Board recommended that COLA of 3.9% be granted effective January 1, 1990. The adjustment granted by the Lieutenant Governor in Council was 3.25%.



The graph above shows the COLA's granted on January 1 following the years 1980 through 1989, i.e. the COLA of 3.25% shown for 1989 was granted on January 1, 1990. The Consumer Price Index (CPI) increases are for the calendar years, i.e. CPI-CAN shown for 1980 is the 10.2% increase which occurred in 1980. During the 10-year period the average annual increases were as follows: Canada CPI - 6.5%, Alberta CPI - 5.9%, COLA's granted - 4.1%. Thus pensions during the last decade were increased by approximately 65% of Canada CPI and 69% of the Alberta CPI.

APPENDIX A

Excerpts from the Act

The following excerpts of the Universities Academic Pension Plan Act define the make-up and responsibilities of the Universities Academic Pension Plan Board.

Establishment, composition, term of office, etc.

5(1) There is hereby established a board known as the Universities Academic Pension Plan Board.

(2) The Board shall consist of not fewer than 6 persons appointed members of the Board by the Lieutenant Governor in Council, being

(a) the chairman,

(b) an even number of not fewer than 4 and not more than 10 persons appointed in equal proportions from among persons nominated by

(i) the employers, and

(ii) the academic staff associations of the employers, and

(c) 1 or more other persons.

(3) A member of the Board holds office for the term fixed in relation to him by the Lieutenant Governor in Council.

(4) The Minister may prescribe the remuneration and expenses to be paid to members of the Board.

(5) The Board may make rules respecting the calling of and the conduct of business at its meetings.

Chairman and vice-chairman

6(1) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman and another member to be the vice-chairman of the Board.

(2) The vice-chairman shall act as chairman when the office of the chairman is vacant or when the chairman is absent or unable to act.

Support services

7 *The Minister shall provide such supplies, services and accommodation as he considers necessary to enable the Board to fulfil its objects.*

Objects of the Board

8 *The objects of the Board are*

(a) *to conduct the hearing of appeals under Part 6;*

(b) *to provide advice to the Minister under section 9;*

(c) *where appropriate, to extend time limits and treat benefit choices as revoked under section 10;*

(d) *to exercise and perform any other powers and duties assigned to it by this Act and regulations;*

(e) *to perform any other duties relating to the Plan that are assigned to it by the Minister.*

Advisory functions of the Board

9 *The Board may advise the Minister respecting any matters relating to the Plan, including*

(a) *the adequacy of contributions to meet benefits,*

(b) *adjustments to pensions under section 26,*

(c) *rates of interest for the purposes of the Plan,*

(d) *benefits,*

(e) *reciprocal agreements,*

(f) *recognition of prior service,*

(g) *eligibility and participation in the Plan, and*

(h) *the actuarial tables prescribed or to be prescribed by the Minister.*

Board's power to extend time limits, etc.

10(1) Where

(a) a person fails to meet a time limit under the Plan,

(b) the failure will or could result in a person's obtaining different benefits than those he would have obtained had the time limit been met, and

(c) the Board is satisfied that the failure results from circumstances that import no material fault on the part of that person,

the Board may, on application to it, extend the time limit.

(2) Where

(a) the circumstances set out in subsection (1)(a), (b) and (c) apply,

(b) the benefit has been received or has commenced to be paid, and

(c) the Board is satisfied that a choice, including a deemed choice, that would otherwise be irrevocable under section 39(2) could materially prejudice the best interests of the recipient or his dependants,

the Board may, on application to it, treat that choice as revoked, extend the time limit for making the choice and order any consequential adjustments in the benefits.

(3) Where

(a) a benefit choice has been made, and

(b) the Board is satisfied that

(i) the choice communicated to the Minister was not that which the person making the choice actually intended, and

(ii) the application mentioned in this section does not result from a change in a person's circumstances affecting the choice,

the Board may, on application made to it within 3 months from the date when the benefit was received or commenced to be paid, treat the choice as revoked, substitute for it the choice that, in the Board's opinion, the person originally intended to make and order any consequential adjustments in the benefits.

Appeal to the Board

34(1) A party aggrieved by a decision of the Minister under or in relation to Parts 2 to 5 or the prescribed provisions of the regulations, other than a decision under section 31 or one that could be the subject-matter of an application under section 10, may appeal against that decision to the Board.

(2) A party wishing to appeal to the Board under this section must serve the chairman of the Board with a notice of appeal in the form prescribed by the Minister within 30 days of being notified in writing of the decision appealed against or within such longer period as the Board may, on application, allow.

(3) The notice of appeal must specify the decision appealed against and the grounds of appeal.

(4) The Board may identify persons who may be interested in the appeal and may give directions as to the persons to be served with the notice of appeal, whether or not they are parties.

(5) For the purposes of conducting an appeal under this section, the Board

(a) has all of the duties, powers, privileges and immunities given to a commissioner appointed under the Public Inquiries Act by sections 3, 4, 7 and 9 of that Act, and

(b) shall be deemed to be a person for the purposes of section 1(a) of the Administrative Procedures Act.

(6) The Board may confirm, vacate or vary the decision appealed against.

(7) The Board shall serve the appellant and persons who received a notice of appeal with a copy of its decision, including the reasons for the decision.

Appeal to the Court of Queen's Bench

35(1) A party aggrieved by a decision of the Board under section 34 may, within 30 days of the date of service of the Board's decision on him or such longer period as the Court may allow, appeal to the Court of Queen's Bench on a question of law or jurisdiction.

(2) The procedure in an appeal to the Court of Queen's Bench shall be the same as that provided in the Alberta Rules of Court for applications by originating notice.

(3) The Court of Queen's Bench, on hearing the appeal, may confirm, vacate or vary the decision of the Board or make any order it considers just.

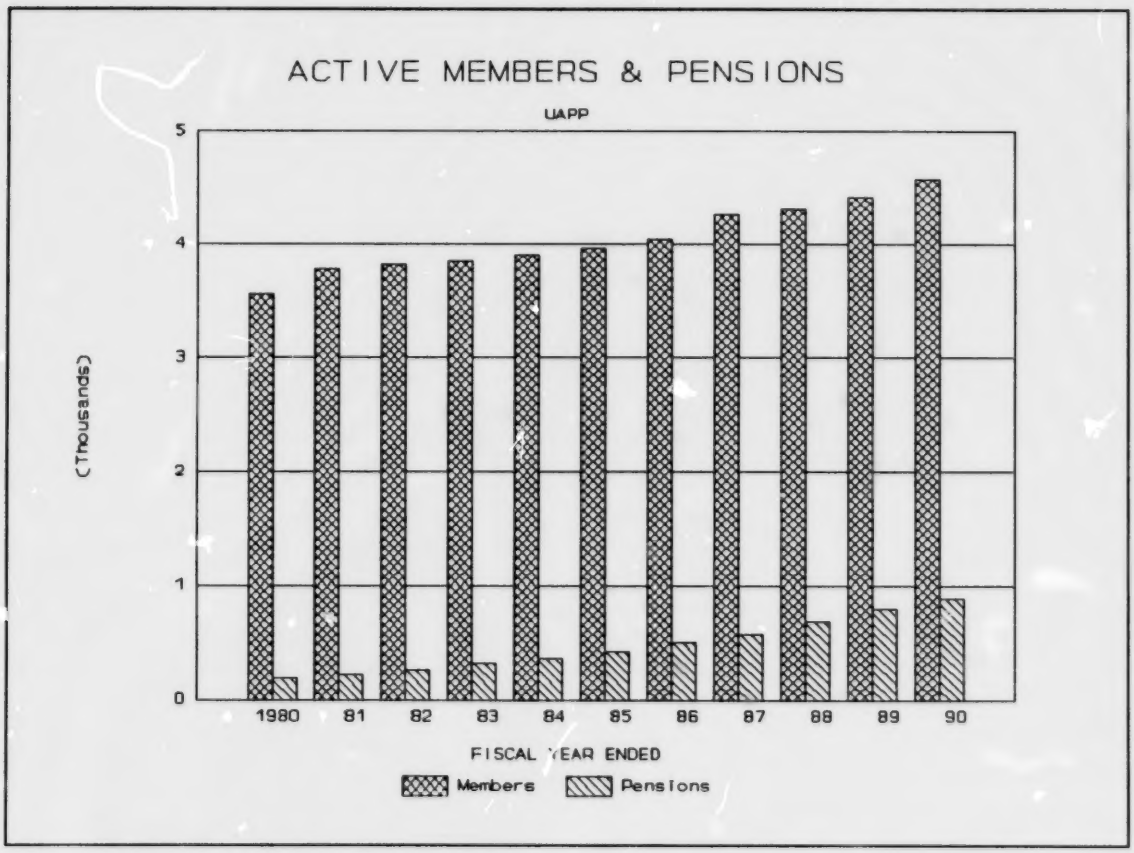
APPENDIX B

Summary of Plan Statistics

Statistics are provided by Payroll and Pensions Division of Alberta Treasury and interpreted by the Alberta Government Pension Boards office.

A. Active Members

Active membership in the Universities Academic Pension Plan increased from 3,560 at March 31, 1980 to 4,578 as at March 31, 1990. The following graph shows the relative changes from 1980 through 1990:



B. Pensions in Payment

Pensions in payment increased from 192 at March 31, 1980 to 886 as at March 31, 1990. The previous graph shows the relative increases.
The average pension in payment was $956.18 per month on March 31, 1981 and increased to $2,25394 per month for pensioners and $1,460 per month for surviving spouses on March 31, 1990.

C. Cash Flow Summary

The graph below reveals that receipts were $15,122,621 in fiscal year 1979/80 and increased to $36,214,000 in fiscal year 1989/90. Payments increased from $3,057,761 in fiscal year 1979/80 to $27,036,000 in fiscal year 1989/90. The excess contributions were $12,064,860 in fiscal year 1979/80 and $9,178,000 in fiscal year 1989/90. [Figures for fiscal year 1978/79 include a transfer of funds from the predecessor plan].